

EXHIBIT 32

Letter dated January 14, 1929 to Attorney General
from Assistant Secretary of Interior

Irrigation
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UNITED STATES
 DEPARTMENT OF THE INTERIOR
 OFFICE OF THE SECRETARY
 WASHINGTON

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JAN 14 1929

The Honorable

The Attorney General.

My dear Mr. Attorney General:

This is in further reference to pending suit in the United States District Court of Nevada entitled United States v. Walker River Irrigation District et al., for the protection of the water rights of the Walker River Indians of the Walker River Reservation in that State (your file BWP 215566).

Your Special Assistant, Ethelbert Kard, in his letter of October 8, 1928, copy of which was forwarded here with your letter of the 12th, points out difficulties encountered in handling this litigation, it appearing that a certain document designated House Document 787, 69th Congress, 2d Session, contains statements of the Supervising Engineer of Indian Irrigation District No. 2 causing some embarrassment in connection with statement of the Government's testimony in the case. This document has been admitted in evidence before the Special Master, and your Special Assistant is of the opinion that it will have tremendous influence on the Master and the Court unless the Indian Bureau sees fit to repudiate the statements contained in that document and produce evidence before the Special Master to show that such statements are incorrect and have never been officially approved. This document, copies of which are enclosed, was prepared under the direction of Supervising Engineer C. A. Engle, of Blackfoot, Idaho, in pursuance to an Act approved June 30, 1926 (44 Stat., 779), being an Act entitled "An Act to investigate and determine the feasibility of the construction of an irrigation dam on Walker River, Nevada." This act in part reads:

For reconnaissance work in Schurz Canyon, on the Walker River, State of Nevada, to determine to what extent the water supply of the river can

Prepared for Secretary's Office

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be augmented and conserved by the impounding of its said waters, and to determine if there is a feasible reservoir site, or sites, available for the storage of such waters and for securing information concerning the feasibility of the construction of the necessary dam, or dams, and appurtenant structures, and for the purpose of determining the amount necessary for the purchase and acquisition of necessary lands and rights of way in connection with the construction of said dam or dams and appurtenant structures, which are proposed in order to provide water for irrigation purposes".

On page five of the report made under direction of Mr. Engle, which was addressed to the Commissioner of Indian Affairs, the following appears:

Herewith is respectfully transmitted a report, with preliminary plans and estimated cost, on the proposal to construct a storage reservoir for the irrigation of Indian lands on the Walker River Indian Reservation of Nevada * * * * - (underscoring supplied)

The tests and investigations at the site which was finally selected as the only one holding out any promise of success, while not completed, have been prosecuted to the extent necessary, in my opinion, to demonstrate the feasibility of the development of storage, as well as to clearly indicate the general type of structure required.

Again, in the Supervising Engineer's letter of February 14, 1927, addressed to the Commissioner of Indian Affairs, appearing on page 89 of the report, the following appears:

On December 29, 1926, we transmitted a report with preliminary plans and estimated cost on the proposal to construct a storage

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reservoir for the irrigation of Indian lands
on the Walker River Indian Reservation of
Nevada * * * * (underscoring supplied)

It was then stated that the investigation of the proposed dam site had not been completed, and that a supplemental or final report, with more detailed plans and revised estimates of cost, would be submitted after completion of the exploratory and investigational work.

The legislation and the above quotations show the purpose for which the investigations were to be made, namely, to determine whether or not a feasible reservoir site existed on the Walker River; and if so, the estimated cost of constructing a reservoir to impound waters of the Walker River.

Your attention is also invited to the legislation which appropriated \$10,000.00, or so much thereof as was found necessary for the investigations, and made said sum, or any part expended thereof for the work reimbursable if and when the project is adopted for construction by the United States or other agency and in accordance with the terms of such adoption of the project. The litigation was pending at the time of the passage of the legislation, and the appropriation was to enable, as above set forth, a determination as to whether or not it would be economically feasible to construct a reservoir to impound flood waters during the non-irrigation seasons that the defendants to the litigation contended were ample to provide adequate irrigation of the Indian lands on the Walker River Reservation if such water was stored in a reservoir, and that the construction of such a reservoir would, according to the defendants' contention, not affect their present irrigation activities. The question as to who should construct the reservoir was left to the future as evidenced from the latter part of the legislation. This was done upon the theory that under a situation of this nature the defendants would be benefited in that they would not have to permit water to pass down the river to the Indians' lands except when the stored supply be insufficient to take care of the prior and first rights of the Indians for approximately 10,000 acres of land, and, therefore, the real beneficiaries would be the defendant water users rather than the Indians.

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The brief resume of the situation herein outlined clearly shows that Supervising Engineer C. A. Engle went beyond the scope of his duty in the report in question. Many of the statements are his personal observations about matters not relevant to the matter for determination and which were not concurred in by the Chief Engineer of the Indian Irrigation Service, and the report, therefore, was not approved by the Bureau of Indian Affairs nor by the Department. The printing of the report was made from a copy thereof furnished at the request of one of the members of the congressional delegation of Nevada.

There are enclosed copies of memoranda regarding this matter by Supervising Engineer at large W. M. Reed, of the Irrigation Service, and the Chief Engineer, Herbert V. Clotts, of that Service, which question the accuracy of the conclusions reached on water supply losses, etc. by Mr. Engle in his report.

It is, therefore, the opinion that the report in question should have no greater weight than any other report submitted that has not received the sanction and approval of the Department and the Bureau. The enclosed copies of memoranda by the engineers mentioned, which have the approval of the Commissioner of Indian Affairs and the Department, should be used to qualify the competency of the document as evidence in the suit.

Very truly yours,

John H. Edwards
Assistant Secretary.

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